

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Karen L. Bartlett

v.

Civil No. 08-cv-00358-JL

Mutual Pharmaceutical  
Company, Inc.

**SUMMARY ORDER**

Attached are the court's rulings on the parties' objections to the deposition testimony of witness Rebecca Padulo, who has been deemed unavailable to testify at trial under Rule 32(a)(4) of the Federal Rules of Civil Procedure (see doc. 275).

**SO ORDERED.**

  
\_\_\_\_\_  
Joseph N. Laplante  
United States District Judge

Dated: August 24, 2010

cc: Bryan Ballew, Esq.  
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Padulo, Rebecca - Vol. 1.txt: 1:1 - 1:24

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

2

Case No.: 08-cv-258-JL

3

Judge Joseph N. Laplante

4

5 KAREN L. BARTLETT and )

GREGORY S. BARTLETT, )

6 Plaintiffs, )

7 )

8 -v- )

9 )

10 MUTUAL PHARMACEUTICAL COMPANY, )

11 INC.; UNITED RESEARCH )

12 LABORATORIES, INC.; and BROOKS )

13 PHARMACY, )

14 Defendants. )

15 -----

16

17

18

19 The deposition of REBECCA PADULO, taken before  
20 Cynthia J. Dotson, Court Reporter and Notary Public, at  
21 the law office of Hedrick, Gardner, Kincheloe & Garofalo,  
22 4011 WestChase Boulevard, Raleigh, North Carolina, on the  
23 13th day of October, 2009, beginning at the hour of  
24 a.m. and ending at the hour of 12:10 p.m. of the same date.

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Padulo, Rebecca - Vol. 1.txt: 4:9 - 4:10

9 Q Have you ever given deposition testimony before?

10 A No.

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Padulo, Rebecca - Vol. 1.txt: 5:1 - 6:7

1 Q Okay. Are you on any medication today?

2 A No.

3 Q May I have your full name for the record, please?

4 A My full name is Rebecca Greenlaw Padulo.

5 Q And how do you spell Padulo?

6 A P as in Peter, A, D as in David, U-L-O.

7 Q And what was your date of birth?

8 A Date of birth is June 15th, 1955.

9 Q Are you married?

10 A Yes.

11 Q Who's your husband?

12 A Daniel Frank Padulo, Jr.

13 Q Where do you live?

14 A I live at 1710 Almond Willow Way in Zebulon, North  
15 Carolina.

16 Q Where did you live before 1710 Almond Willow Way?

17 A I lived in Knightdale. I can't think of the  
18 address in Knightdale. Medieval Court. I can't  
19 think of the number.

20 Q Is that an address in North Carolina?

21 A Yes. Knightdale, North Carolina.

22 Q Okay. Where did you live before living in

23 Knightdale, North Carolina?

24 A Before that we spent two months living at my

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00006

- 1 mother-in-law's house in Cary, 114 Prestwick Place,
- 2 Cary, North Carolina.
- 3 Q I take it that you had moved to North Carolina at
- 4 some point?
- 5 A Yes.
- 6 Q When was that?
- 7 A That's three years ago now.

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Padulo, Rebecca - Vol. 1.txt: 7:13 - 7:22

- 13 Q What do you do for a living?
- 14 A Mostly I've been a receptionist for a number of
- 15 different medical offices or dental office. I
- 16 started out working in an orthodontist's office.
- 17 Then the last job I had in New Hampshire--well,
- 18 they were actually in Massachusetts. The last job
- 19 I had was working for a dentist in North Andover.
- 20 Q Where do you work now?
- 21 A Right now I'm working as a receptionist at Duke
- 22 Orthopedics of Raleigh.

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Padulo, Rebecca - Vol. 1.txt: 8:19 - 9:23

- 19 Q How is it that you came to meet Karen Bartlett?
  - 20 A We attended the same church, First Baptist Church
  - 21 in Plaistow, New Hampshire.
  - 22 Q When was the first time that you met Karen
  - 23 Bartlett?
  - 24 A I really can't say. I attended First Baptist
- 00009
- 1 Church over a period of twenty years, and I don't
  - 2 remember.
  - 3 Q Where is First Baptist Church located?
  - 4 A It's on Main Street in Plaistow. I think their
  - 5 address is like 125 Main Street, something like
  - 6 that.
  - 7 Q How long have you known Karen Bartlett?
  - 8 A Karen and I weren't really close. We were
  - 9 acquaintances. My daughter was in high school with
  - 10 her son, so I would have a tendency to
  - 11 say--Raquel's twenty-five now--maybe acquainted
  - 12 with her for about ten years.
  - 13 Q Can you describe for me what types of interactions
  - 14 you had with Karen Bartlett while you knew her in
  - 15 New Hampshire?
  - 16 A Sure. Going into church, saying hi to different
  - 17 people, hello, realizing that our children were
  - 18 both in high school together, her son Matt, my
  - 19 daughter Raquel. Occasionally doing, you know,
  - 20 church projects together when we would have our
  - 21 pumpkin carvings, when we would have Advent
  - 22 services. It was all really church-related. I
  - 23 didn't really see her outside of church at all.

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Padulo, Rebecca - Vol. 1.txt: 10:11 - 11:6

- 11 Q Was Karen Bartlett part of those groups that you
- 12 put together to promote women being together with
- 13 respect to--
- 14 A Not--not always. I got the sense that she was busy
- 15 at home and busy working. But Karen was the--what

## Bartlett v Mutual

16 is that, like treasurer at our church, and so  
 17 sometimes I'd run into her because she'd be in the  
 18 office working on the books and the accounting, and  
 19 so I'd be in there getting stuff, running copies  
 20 and stuff like that, so I'd see her to talk to at  
 21 times like that.

22 Q Was Karen a regular church-goer?

23 A Yes, I think, fairly regular. It's really hard for  
 24 me to really say, because I--when I would get to

00011

1 church, I'd come early, and I tend to sit at the  
 2 front, like in the first three pews, so everybody's  
 3 behind me, so I'm not always aware or wasn't always  
 4 aware of who's coming in and how many times they  
 5 come in. But I remember seeing her pretty  
 6 regularly.

Padulo, Rebecca - Vol. 1.txt: 11:13 - 12:24

13 Q And that occasion that you just mentioned when she  
 14 was sick, what did that entail?

15 A Well, our church was trying to raise funds to help  
 16 pay for the cost, so she--I'm under the impression  
 17 that her salary was very important to their family,  
 18 and of course she wasn't working while she was  
 19 sick, and so we were trying to raise funds to help  
 20 the family, help her medical costs.

21 Q So this was a period of significant illness for  
 22 Karen?

23 A Oh, yes.

24 Q And when was that?

00012

1 A I'm not good with dates and I don't remember the  
 2 exact date.

3 Q Okay. Can you tell me about what time frame you  
 4 recall Karen getting sick?

5 A Well, we had this date that we went to see the Lion  
 6 King. I heard from Lynda Mailhot, who's my much  
 7 closer friend, that Karen ended up in the hospital  
 8 within a couple of days after having gone to see  
 9 the Lion King. And then it was just continual  
 10 reports that she was in the hospital, that she got  
 11 Stevens Johnson Syndrome, and that she was so sick.  
 12 I mean, they had her in a coma. She was on a  
 13 feeding tube. And it just went on and on and on  
 14 for months, her--lost her hair. Her recuperation  
 15 time was going to be long, months if not years.  
 16 Just--

17 Q Now, are those issues with her illness things that  
 18 you observed or are those things that you heard  
 19 about from other people?

20 A It's always something I heard about specifically  
 21 from Lynda Mailhot and from things that people were  
 22 mentioning. I never visited her in the hospital.  
 23 I, you know, prayed for her and stuff, but that  
 24 was--that was it. I never saw her directly.

Objection (12:17 to 12:24):

-602

-801

-802

Ruling: Sustained.

Padulo, Rebecca - Vol. 1.txt: 13:1 - 13:8

1 Q Is it fair to say that while she was a member of  
 2 the church, she was not among your sort of inner  
 3 circle of friends?

## Bartlett v Mutual

- 4 A Right. That is fair to say.  
 5 Q If I told you that you went to the Lion King on  
 6 January 29, 2005, does that sound about--is that  
 7 the right date?  
 8 A Yes, that sounds correct.

Padulo, Rebecca - Vol. 1.txt: 16:12 - 17:16

- 12 Q From Raquel's fondness of Matt, did you get any  
 13 sense of what the relationship was like between  
 14 Matt and his parents?  
 15 A I thought it was a good relationship. I know Karen  
 16 and I are kind of in a similar position, so the few  
 17 times that we did talk, it was over concern. I had  
 18 only Raquel, she had only Matt, and I just thought  
 19 that we both were very concerned about our children  
 20 being teenagers and the world the way it is now,  
 21 and you know, that they make the right choices and  
 22 find themselves and go in the right direction.

- 23 Q Uh-huh (yes). What types of concerns did Karen  
 24 raise with you, if any?

00017

- 1 A Oh, just that Matt, you know, do well in school,  
 2 and what his future was going to be. I don't  
 3 remember what he wanted to be. He always seemed to  
 4 me to be just a really nice kid, and I don't really  
 5 remember anything else.

- 6 MR. JENSEN: I'm sorry, the first answer  
 7 I didn't hear. Can you say it again, Ms. Padulo,  
 8 please?

- 9 THE WITNESS: About Matt? I just thought  
 10 that Karen was concerned about what his future was  
 11 going to be and that he would do well in school and  
 12 perhaps go to college.

- 13 MR. JENSEN: Okay. Thank you.

- 14 Q Do you--did Matt go to college?

- 15 A I think he did. I don't know specifically where,  
 16 but I do think he did.

Objection:  
 -402  
 -602  
 -Calls for speculation  
 -No foundation

Ruling: Sustained.

Padulo, Rebecca - Vol. 1.txt: 17:20 - 17:23

- 20 Q If I understand your testimony correctly, you don't  
 21 recall Ms. Bartlett complaining about upset stomach  
 22 or anything like that during the course of the day?  
 23 A No.

Padulo, Rebecca - Vol. 1.txt: 18:10 - 20:6

- 10 Q Did there come a time after January 29, 2005, that  
 11 you learned that Ms. Bartlett began to experience  
 12 some illness on that day?

- 13 A Yes. It was afterwards. When I talked to Lynda  
 14 about, you know, that they got home okay, she said  
 15 then that Karen wasn't feeling that well when she  
 16 brought her home. So it was Lynda that was  
 17 driving, because she picked up Karen and then I met  
 18 with them and then she brought Karen home.

- 19 Q Is that a conversation that to the best of your  
 20 recollection happened Saturday night?

- 21 A Not Saturday night. It would have been Sunday or  
 22 afterwards, 'cause I went home. I thought we'd had  
 23 a great day. I thought everything was fantastic.

## Bartlett v Mutual

24 We were all aglow about the Lion King. And I think  
00019

1 when I saw Lynda probably the next day in church,  
2 you know, "You guys got home okay, everything was  
3 fine?" "Yeah. Lynda wasn't--Karen wasn't feeling  
4 that good. I took her straight home." And then we  
5 didn't see her at church.

6 Q Did Lynda in that brief--in that conversation, did  
7 Lynda attribute Karen's condition to anything?

8 A I thought she attributed it more to tiredness, but  
9 I really--that's my general sense of it. I don't  
10 remember specifically exactly what she said.

11 Q Do you have a recollection of seeing Karen in  
12 church on Sunday?

13 A No.

14 Q The next day after the Lion King?

15 A No.

16 Q After January 29, 2005, when is the next time that  
17 you had an interaction with Ms. Bartlett that you  
18 recall?

19 A What I recall is that the band that my husband and  
20 I and Lynda Mailhot's husband Walter had--we had a  
21 group called Agape, and this is like maybe at least  
22 a year later, a year and a half, maybe even two  
23 years later that we were holding a fundraiser,  
24 again to raise money to help Karen, and that she

00020

1 was present at the fundraiser, and that was the  
2 last time I saw Karen that I remember. She was in  
3 a wheelchair. She had something covering her head  
4 because she really didn't have any hair. And she  
5 did not look like the woman that I remembered from  
6 when I'd seen her on January 29th.

Padulo, Rebecca - Vol. 1.txt: 21:4 - 21:20

4 Q When you saw Karen at the concert and she was in a  
5 wheelchair, did you have an occasion to visit with  
6 her?

7 A I spoke with her just for a few minutes.

8 Q And what was that conversation about?

9 A Just that I was glad to see her, that I was so  
10 sorry about everything that had happened to her,  
11 that I hoped we raised a good amount of money so  
12 that, you know, it would be helpful to her, to tell  
13 her that I was praying for her and that I was  
14 playing for her complete, you know, healing, and  
15 that I hoped that God would strengthen with her.  
16 It amazed me that she was able to even smile.

17 Q You had mentioned that the concert was a  
18 fundraiser. Am I correct to understand that it was  
19 a fundraiser specifically for her?

20 A Yes. Yes.

Objection:  
-402

Ruling: Sustained as to lines 21:8  
through 21:15. Otherwise  
overruled.

Padulo, Rebecca - Vol. 1.txt: 23:4 - 23:10

4 Q How much money did you raise?

5 A I think it was over a thousand dollars, but those  
6 were all details that somebody else handled. When  
7 we're performing, I like have everything I can do  
8 to keep myself together to sing and--

9 Q I understand.

Objection:  
-402

Ruling: Sustained (Rules 402,  
602).

Bartlett v Mutual

10 A --play the notes, and that's where I was.

Padulo, Rebecca - Vol. 1.txt: 23:14 - 24:21

14 Q Between the time of January 29, 2005, and the next  
15 time that you saw Ms. Bartlett at the fundraiser,  
16 did you have any conversations with Lynda Mailhot  
17 about her--Ms. Bartlett's condition?

18 A Yes. It became my habit, knowing that Lynda was  
19 visiting Karen and relaying our prayers and our  
20 good wishes to her, to ask Lynda how she was doing,  
21 so you know, getting those periodic updates  
22 of--that she was--they still had her in a coma,  
23 that it was going to be more weeks, and how she was  
24 doing was just part of our conversation.

00024

1 Q Was speculation about what caused her condition  
2 ever part of those conversations?

3 A Sure, it was.

4 Q And what was said in those--in that regard?

5 A That was when Lynda had told me that Karen never  
6 took medications for anything, but something was  
7 bothering her. I don't know if it was some kind of  
8 muscular ailment. And so it was bothering her  
9 enough that she had gone to a doctor about it and  
10 the doctor had prescribed something for her, and  
11 one of the side effects of--one of the possible  
12 side effects of the medication was what had  
13 happened.

14 Q What was that medication, if you know?

15 A I don't remember the name.

16 Q And is it your understanding that Lynda  
17 specifically told you that one of the possible side  
18 effects was the event that occurred to her?

19 A Yes.

20 MR. JENSEN: I think that calls for  
21 hearsay, but go ahead.

Objection:

-402

Ruling: Sustained (Rules 402, 602,  
803). Both parties objected to this  
testimony when designated by the  
other party.

Padulo, Rebecca - Vol. 1.txt: 26:13 - 27:4

13 the hospital, she's still recuperating."

14 Q Do you know anything of Karen's current condition?

15 A From occasional e-mails. We have prayer request e-  
16 mails that I still get from First Baptist Church.  
17 I would get an e-mail, "Please pray for Karen.  
18 She's going for eye surgery." So I know she's  
19 still having problems with her eyes. I'm really  
20 not aware of whatever else is going on with her  
21 condition.

22 Q Did those e-mails come to you from the church or  
23 from other members?

24 A They came from a member who has kept up with me.

00027

1 Her name is Terri Russell. And she sends out the  
2 prayer requests. As far as I'm aware, she sends  
3 out the prayer requests, and so I'm on the prayer  
4 chain, the e-mail prayer chain from First Baptist.

Objection:

-402

Ruling: Sustained.

Padulo, Rebecca - Vol. 1.txt: 27:14 - 27:19

14 Q Do you have any information about Ms. Bartlett's  
15 lawsuit?

Objection:

-402

Ruling: Overruled.

## Bartlett v Mutual

16 A Just now, you know, receiving this material about  
 17 the deposition. So I don't know specifically about  
 18 the lawsuit except, you know, what the title is,  
 19 you know, on my paper-work that I received.

Padulo, Rebecca - Vol. 1.txt: 28:7 - 28:14

7 Q Okay. And I see you've brought some documents with  
 8 you today to the deposition. What do you have  
 9 there?

10 A I have Fed-Ex paper-work that I received from  
 11 Jensen, Ballew and Gonzalez with a cover letter,  
 12 and then Exhibit 125, Exhibit 127, a picture of the  
 13 opera house in Boston and a map showing the area  
 14 that we visited on January 29th.

Objection:  
 -402

Ruling: Sustained.

Padulo, Rebecca - Vol. 1.txt: 30:10 - 31:1

10 And so my question to you is, do you have  
 11 any other documents other than what we've marked as  
 12 Exhibit 1 that are responsive to these document  
 13 requests?

14 A I printed out the e-mails I received from Keith  
 15 Jensen. I never received any materials from Karen  
 16 or Greg Bartlett about her stuff. I mean,  
 17 basically she was in the hospital and I never  
 18 received anything from her.

19 Q Okay. May I make a copy of these e-mails and just  
 20 mark them as Exhibit 3 to your deposition?

21 A Sure.

22 MR. JENSEN: No. No, you may not. Ms.  
 23 Padulo has requested my representation, so Ms.  
 24 Padulo, put those e-mails away right now. They're

00031

1 privileged. You know that, so don't mark them.

Objection:  
 -402

Ruling: Sustained.

Padulo, Rebecca - Vol. 1.txt: 32:3 - 32:13

3 Q I do want to ask you, Ms. Padulo, is it true in  
 4 fact that you asked Mr. Jensen to represent you for  
 5 purposes of this deposition?

6 A No, it didn't happen that way, but I do want him  
 7 to.

8 Q Okay.

9 MR. JENSEN: I didn't hear your answer.  
 10 No, it didn't happen that way, was that what you  
 11 said?

12 THE WITNESS: It didn't happen precisely  
 13 that way, but I do want you to represent me.

Objection:  
 -402

Ruling: Overruled. Goes to  
 credibility.

Padulo, Rebecca - Vol. 1.txt: 34:18 - 35:10

18 Q Thank you, ma'am. So please introduce yourself to  
 19 the jury.

20 A My name is Rebecca Padulo. I live in Zebulon,  
 21 North Carolina. I'm fifty-four years old and used  
 22 to live up in New Hampshire and attend First  
 23 Baptist Church in Plaistow.

24 Q And how long have you known Karen Bartlett?

00035

1 A I don't remember the specific length of time. I  
 2 attended First Baptist Church for over twenty years

Objection:  
 -402

Ruling: Overruled.



Bartlett v Mutual

3 and my specific memory of being aware of Karen and  
4 speaking more with her is once my daughter was in  
5 high school at the public school at Timberlane  
6 Regional High School and her son Matthew was also  
7 there and they knew each other. So, gee, my  
8 daughter was born in '85 and so once she went to  
9 high school, that's when I started really speaking  
10 more with Karen.

---

Padulo, Rebecca - Vol. 1.txt: 35:11 - 37:6

11 Q Have you ever eaten at a place called the Taiwan  
12 Cafe in downtown Boston?  
13 A Yes, I have.  
14 Q Was it always the same name or in previous years  
15 did it go by a different name?  
16 A In previous years it went by a different name. I'd  
17 been eating in the same location since I was in  
18 sixth grade off and on through the years.  
19 Q And my mom taught me never to ask a woman her age  
20 of course, but can you give me a rough estimate,  
21 give the jury a rough estimate, please, of  
22 approximately how long as of 2005 you had been  
23 eating Chinese food at that location?  
24 A Oh, well, I'm fifty-four. I was born in 1955. And  
00036  
1 we moved to Andover, Massachusetts when I was in  
2 sixth grade. So my mother's Filipino and at the  
3 time there weren't as many--well, there weren't any  
4 Asian markets around where she could get rice and  
5 where she could get the vegetables that she likes  
6 to eat and some of the different foods that she  
7 likes to eat, so we were going into Boston at least  
8 once a month to eat at the restaurant that was at  
9 that location, which I seem to remember was called  
10 Ye Hong Guey. So at least a minimum of twelve  
11 times a year from sixth grade right up through high  
12 school. I went away to college and then throughout  
13 the years, you know, I'd go with my mother in.  
14 We'd make a trip of it a couple of times a year,  
15 different periods of my life. I'm thinking I  
16 wasn't aware that it had changed to Taiwan Cafe  
17 till maybe ten years ago.  
18 Q Okay. And--  
19 A But I still ate there.  
20 Q Okay. And was the food similar or much the same  
21 with the new name or was it completely different  
22 food when it changed names to the Taiwan Cafe?  
23 A The food was more authentic Asian food. The other  
24 Ye Hong Guey was more what you might find in any  
00037  
1 Chinese restaurant, you know, sweet and sour pork  
2 and fried chicken and stuff like that, but my  
3 family, because of my mother being Filipino, really  
4 likes to eat the more authentic food. So we were  
5 very pleased at the Taiwan Cafe, 'cause that's more  
6 authentic Asian cooking.

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Padulo, Rebecca - Vol. 1.txt: 37:23 - 39:7

What date do  
24 you believe that you ate at the Taiwan Cafe with

Bartlett v Mutual

00038

- 1 Karen Bartlett?  
 2 A January 29th of 2005.  
 3 Q Who else, if anyone, did the two of you dine with?  
 4 A Lynda Mailhot.  
 5 Q Who is Lynda Mailhot?  
 6 A Lynda Mailhot is a very good friend of mine who  
 7 also goes to First Baptist Church.  
 8 Q You have Exhibit 127 with you, that is three color  
 9 pictures in one exhibit three pages long?  
 10 A Yes, I do.  
 11 Q What is the first page of Exhibit 127, please?  
 12 A It's a picture of the Taiwan Cafe.  
 13 Q How did--including your interactions with me, how  
 14 did that picture come into existence, please?  
 15 A I looked it up on the internet to give you a good  
 16 idea of what the cafe was that we had gone to to  
 17 eat at.  
 18 Q Did you guys after you had dinner that night go  
 19 somewhere else?  
 20 A Yes. We went to see the Lion King.  
 21 Q What is Page 2 of Exhibit 127?  
 22 A Page 2 is a picture of the opera house, which is  
 23 where we went to see the Lion King.  
 24 Q And what is Page 3 of Exhibit 127?

Objection (38:18 to 38:20):  
 -611 (c)  
 -No foundation  
 -Incorrect statement

Ruling: Overruled.

00039

- 1 A Page 3 is a map of the downtown area of Boston that  
 2 includes the distance from the Taiwan Cafe area to  
 3 the opera house area.  
 4 Q And did you help me create, through a conversation  
 5 where we were both looking at the computer, all  
 6 three of those pages that are now before you?  
 7 A Yes, I did.

Padulo, Rebecca - Vol. 1.txt: 40:1 - 40:9

- 1 Q Ms. Padulo, does Exhibit 127--is it the following:  
 2 an accurate picture of where yourself, Ms.  
 3 Bartlett, Ms. Mailhot first ate dinner on January  
 4 29, 2005, the second page, is it an accurate  
 5 picture of where you attended the Lion King on that  
 6 night, and is the third page an accurate map of  
 7 downtown Boston where the letters A and B depict  
 8 where the Taiwan Cafe is and where the three of you  
 9 walked to get to the Lion King?

Objection:  
 -611 (c)

Ruling: Overruled.

Padulo, Rebecca - Vol. 1.txt: Page 40, Line 12

- 12 A Yes.

Padulo, Rebecca - Vol. 1.txt: 40:23 - 42:9

- 23 Please tell the jury what the first page of that  
 24 exhibit represents.

00041

- 1 A The first page is a picture of the Taiwan Cafe.  
 2 Q And is that where the three of you had dinner on  
 3 Saturday, January 29, 2005?  
 4 A Well, we had lunch, but yes, that's where we ate.  
 5 Q Okay. And have you now signed that page?  
 6 A I have signed it.  
 7 Q And what is the second page of that exhibit,

## Bartlett v Mutual

8 please?  
 9 A The second page is a picture of the opera house  
 10 with its address.  
 11 Q And is that the precise opera house where the three  
 12 of you saw the Lion King that night?  
 13 A Yes, it is.  
 14 Q And what is the third page of that exhibit?  
 15 A The third page is a map of downtown Boston showing  
 16 the area around Chinatown and around where the  
 17 opera house is.  
 18 Q What do the A and B point to on that third page of  
 19 the map of downtown Boston, please?  
 20 A The A represents the location of the Taiwan Cafe  
 21 and B represents the location of the opera house.  
 22 And from this you can get a good idea of the walk  
 23 from one to the other that we took on that day,  
 24 January 29th.

00042

1 Q I think you just told us, but how did you guys get  
 2 from Taiwan Cafe to the opera house to watch the  
 3 Lion King that evening?  
 4 A We walked.  
 5 Q Okay. How far of a walk was it approximately, how  
 6 long?  
 7 A I think of it as a couple of blocks. It's more  
 8 probably like ten, but it's not that far a  
 9 distance.

Padulo, Rebecca - Vol. 1.txt: 42:12 - 43:17

12 A The food was delicious.  
 13 Q Have you eaten at the Taiwan Cafe after that  
 14 evening on January 29, 2005?  
 15 A Yes. I met with my daughter again there to meet  
 16 for lunch.  
 17 Q You told us you'd been going to that location to  
 18 eat Chinese food since you were in sixth grade, is  
 19 that true?  
 20 A Yes.  
 21 Q You told us that you'd been going to that location  
 22 when it was called the Taiwan Cafe for  
 23 approximately ten years to eat Chinese food, is  
 24 that true?

00043

1 A That is true, although ten years makes it sound  
 2 like a lot of times. It's--but I have been going  
 3 there, yes.  
 4 Q Okay. And for all the times you've been to that  
 5 location before and since it was called the Taiwan  
 6 Cafe, you included and anyone you've ever heard of,  
 7 did they have a bad meal, to your knowledge?  
 8 A I have never had a bad meal there or spoken to  
 9 anyone who had a bad meal there.  
 10 Q Had either you, or to your knowledge, anyone you've  
 11 ever known that's gone to the Taiwan Cafe or its  
 12 predecessor there ever had any bad experience from  
 13 food there such as including a stomachache or  
 14 indigestion or just not feeling right, you know,  
 15 they weren't sure whether or not it was the food?  
 16 Any such experience you've ever heard of from that  
 17 location in your life?

Objection:  
 -402  
 -611 (c)  
 -Vague  
 -Misleading

Ruling: Overruled.

Bartlett v Mutual

Padulo, Rebecca - Vol. 1.txt: Page 43, Line 20

20 A No, I haven't heard of anybody.

Padulo, Rebecca - Vol. 1.txt: 44:14 - 45:21

On January

15 29th, 2005, did you and Ms. Bartlett and Ms.  
16 Mailhot eat kind of the same thing from what's  
17 known as community plates in Asian food? Did you  
18 all eat different things? Tell us about that,  
19 please.

20 A My memory is that I did the ordering because their  
21 menu is written in Asian characters and stuff, and  
22 since I was the one who'd been there before. My  
23 memory is that we ordered family style and we all  
24 shared from the dishes.

00045

1 Q I forgot to ask you, have you now signed all three  
2 pages of that--the color pages of Exhibit 127?

3 A Yes.

4 Q Thank you. And so it's your best memory that the  
5 three of you all ate from the same dishes that  
6 evening at the Taiwan Cafe? Is that true?

7 A Yes.

8 Q Okay. Did you have any indigestion or diarrhea or  
9 any bad feeling that you attributed to anything you  
10 ate that day, including from the Taiwan Cafe?

11 A No, I didn't.

12 Q To your knowledge, did Lynda Mailhot have any  
13 indigestion or diarrhea or any bad feeling that she  
14 attributed to the Taiwan Cafe?

15 A No, she didn't.

16 Q That entire day, sticking to Saturday, January  
17 29th, 2005, did Karen Bartlett say anything or do  
18 anything which you interpreted to mean that she  
19 might have had a bad meal or indigestion or  
20 diarrhea from the Taiwan Cafe?

21 A No, I don't remember anything of that sort.

Padulo, Rebecca - Vol. 1.txt: 46:3 - 47:5

3 Q And approximately what time did the three of you  
4 head back to Plaistow from downtown Boston?

5 A I seem to recall it was a one o'clock showing and I  
6 was thinking we headed back probably around four-  
7 thirty or so. Four-thirty, five o'clock. We had  
8 to walk back to the car, you know, pay the parking  
9 ticket, head out of Boston. I think that's about  
10 it.

11 Q If you could flip to Page 3 of that exhibit, the  
12 one with the map of downtown Boston. Tell me when  
13 you're there.

14 A Yeah.

15 Q Do you see that in that picture, up above where you  
16 guys ate, just a few blocks away is Mass General  
17 Hospital? Do you see that?

18 A I see the New England Medical Center. Hold on.

19 Q Yeah, the New England Medical Center to the bottom,  
20 and towards the top you'll see a pink area. You'll  
21 see Mass General.

22 A Oh, I see it. I see it. Yeah.

Objection:

-402

-611 (c)

-701

-Calls for speculation

-Argumentative

-Misleading

Ruling: Sustained as to lines 46:15  
through 47:10. Otherwise  
overruled.

## Bartlett v Mutual

23 Q Okay. My question is, did you in your wildest  
 24 dreams, Ms. Padulo, have any reason to believe that  
 00047  
 1 after Taiwan Cafe or after the Lion King on that  
 2 Saturday night in January 2005, that one of the  
 3 three of you might happen to be or need to be at  
 4 Tufts within a few days or at Mass General Hospital  
 5 more than seventy days?

Padulo, Rebecca - Vol. 1.txt: Page 47, Line 10

10 A No, I didn't.

Padulo, Rebecca - Vol. 1.txt: 47:21 - 48:3

21 Q Is the reason you had no reason to believe that is  
 22 because to your knowledge there was nothing unusual  
 23 about dinner, nothing unusual about the food the  
 24 three of you all ate from the same dishes, and  
 00048  
 1 there was nothing unusual about the wonderful  
 2 performance of the Lion King?  
 3 A That's correct.

Objection:  
 -402  
 -611 (c)  
 -701  
 -Calls for speculation  
 -Argumentative  
 -Misleading

Ruling: Sustained as to line 47:21  
 (refers back to excluded  
 testimony). Otherwise overruled,  
 despite the leading.

Padulo, Rebecca - Vol. 1.txt: 48:15 - 49:14

15 Q I'm not asking you for an exact sum or what you're  
 16 certain about, Ms. Padulo, but based upon what you  
 17 do know, do you best estimate that the likely total  
 18 sum raised for Karen Bartlett as a result of the  
 19 fundraiser would be less than two thousand dollars?  
 20 A Yes.  
 21 Q Okay. And tell us about that, please, how that  
 22 came into being, that fundraiser that raised  
 23 probably less than two thousand dollars.  
 24 A Well, we knew that she was out of work and it was  
 00049  
 1 for a long time, and she's in the hospital, and  
 2 just knowing that, you know, insurance doesn't  
 3 always cover everything, and we just wanted to help  
 4 in some way. There's no way we could help  
 5 medically. We just wanted to help her family and  
 6 help her out in some way.  
 7 Q Is it correct to say that during the course of  
 8 either our first or second conversation, you did  
 9 request that I represent you in relation to your  
 10 deposition?  
 11 A I'm so sorry, I don't remember specifically how it  
 12 came about, but I was grateful to talk to you and  
 13 grateful for the help you were giving me and did  
 14 want, you know, to keep, yes, the connection.

Objection:  
 -402  
 -611 (c)  
 -Calls for speculation

Ruling: Sustained (Rules 402, 602,  
 611).

Padulo, Rebecca - Vol. 1.txt: 49:19 - 50:16

Was Karen in a wheelchair  
 20 at the fundraiser?  
 21 A Yes.  
 22 Q Was she with her husband, Greg?  
 23 A Her husband was pushing her wheelchair.  
 24 Q Tell us approximately when it was in time, as best  
 00050  
 1 you can say, fall, spring of what year.

Objection:  
 -402  
 -611 (c)  
 -Argumentative  
 -Assumes facts not in  
 evidence  
 -No foundation  
 -602

Ruling: Overruled.

Bartlett v Mutual

2 A I really can't even say. I don't recall at all  
3 what time of the year. I know it was a great deal  
4 of time after she had become ill, because it just  
5 seemed to me like she was in the hospital forever.  
6 Q Let me give you some dates and then see if it helps  
7 you give us an answer. I'm going to represent to  
8 you that Ms. Bartlett was in four hospitals for  
9 over a hundred days starting February 2nd through  
10 at least the middle of May 2005, and then she went  
11 home and she still had a G tube or a gastrostomy  
12 tube through which she was fed for another eleven  
13 months after her fifth discharge from four  
14 hospitals, so she got her G tube out approximately  
15 in April 2006. Does that help you tell us when  
16 this fundraiser would have been?

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Padulo, Rebecca - Vol. 1.txt: 50:19 - 51:5

19 A That speaks to what I recall in terms of that she  
20 was still being treated and that she wasn't able to  
21 just, you know, get up and go around anywhere, even  
22 to her appointments. It speaks to my memory that  
23 this was--this fundraiser was perhaps as much as  
24 two years after she had become ill. But I still  
00051  
1 can't remember what time of year or anything about  
2 the date.  
3 Q Fair enough.  
4 A I just know she wasn't completely well and that she  
5 wasn't able to work.

---

Padulo, Rebecca - Vol. 1.txt: 51:12 - 51:15

12 Q Okay. How many times have you seen Karen in person  
13 since she was released from her many  
14 hospitalizations?  
15 A That was the only time.

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**Deposition of Rebecca Padulo – October 13, 2009**

**Pg: 11 Ln: 21 - Pg: 12 Ln: 2**

**RULING:**

Overruled.

**Objection:** Irrelevant.  
Rule 401.

**Annotation:**

11:21 Q So this was a period of significant illness for  
22 Karen?

23 A Oh, yes.

24 Q And when was that?

12: 1 A I'm not good with dates and I don't remember the  
2 exact date.

**Pg: 24 Ln: 1 - 13**

**RULING:**

Sustained. Both  
parties objected  
to this testimony  
when designated by  
the other party.

**Objection:** Subject of Plaintiff's Motion In Limine No. 14  
Rule 401.  
Rule 403.  
Rule 26(a)(2)(A).

**Annotation:**

24: 1 Q Was speculation about what caused her condition  
2 ever part of those conversations?

3 A Sure, it was.

4 Q And what was said in those--in that regard?

5 A That was when Lynda had told me that Karen never  
6 took medications for anything, but something was  
7 bothering her. I don't know if it was some kind of  
8 muscular ailment. And so it was bothering her  
9 enough that she had gone to a doctor about it and  
10 the doctor had prescribed something for her, and  
11 one of the side effects of--one of the possible  
12 side effects of the medication was what had  
13 happened.

**Pg: 24 Ln: 16 - 19**

**RULING:**

Sustained. Both parties objected to this testimony when designated by the other party.

**Objection:** Subject of Plaintiff's Motion In Limine No. 14  
Rule 401.  
Rule 403.  
Rule Rule 26(a)(2)(A).

**Annotation:**

24:16 Q And is it your understanding that Lynda  
17 specifically told you that one of the possible side  
18 effects was the event that occurred to her?  
19 A Yes.



**REBECCA PADULO DEPOSITION – AUGUST 13, 2009**

**Pg: 6 Ln: 17 - 24**

**Annotation:**

6:17 Q Did you live at the same residence for your entire  
18 time in New Hampshire?  
19 A No. No.  
20 Q Where did you last live in New Hampshire before  
21 moving to North Carolina?  
22 A Lived in Derry, Derry, New Hampshire, in a  
23 condominium. Let's see. I'm really bad with  
24 addresses.

**RULING:**  
Overruled.  
Permissible as  
background info.

**OBJECTION:** Relevance.

**Pg: 7 Ln: 4 - 12**

**Annotation:**

7: 4 Q And what--okay. Where is Derry in relation to  
5 Plaistow, New Hampshire?  
6 A Derry is about twenty minutes' driving time, maybe  
7 fifteen miles north on Route 93 from Plaistow.  
8 You'd have to take back roads to get there, you  
9 know, like 495 to 93, if you were taking the  
10 highway, but--  
11 Q And how long did you live in Derry, New Hampshire?  
12 A I think we were there five years.

**RULING:**  
Overruled.  
Permissible as  
background info.

**OBJECTION:** Relevance.

**Pg: 11 Ln: 7 - 12**

**Annotation:**

11: 7 Q What about her husband?  
8 A I don't remember him at all. I think she came  
9 without him.  
10 Q Do you know her husband?  
11 A I have met him. Most--the most notable occasion  
12 was when she was sick. I met him once or twice.

**RULING:**  
Sustained.

**OBJECTION:** Relevance.  
Lack of Foundation.

**Pg: 17 Ln: 24 - Pg: 18 Ln: 9**

**Annotation:**

17:24 Q Did there come a time after January 29 that you  
 18: 1 learned that she was experiencing some  
 2 gastrointestinal upset?  
 3 MR. JENSEN: I'm sorry, was her answer to  
 4 the last question no, she did not complain of  
 5 anything during the whole day?  
 6 MR. COSGROVE: Not--it was not that she  
 7 recalls.  
 8 MR. JENSEN: Not that she--thank you,  
 9 sir.

**RULING:**  
 Overruled.

**OBJECTION:** Relevance.

**Pg: 20 Ln: 19 - Pg: 21 Ln: 3**

**Annotation:**

20:19 Q Do you recall one way or another if Ms. Bartlett  
 20 had discussed with you her plans for that evening  
 21 when you arrived--when you all arrived home from  
 22 the Lion King?  
 23 A No.  
 24 Q So you don't know one way or another if she had to  
 21: 1 cancel her plans for the evening because she wasn't  
 2 feeling well?  
 3 A No, I have no way of knowing that.

**RULING:**  
 Overruled.

**OBJECTION:** Relevance.  
 Lack of Foundation.

**Pg: 27 Ln: 5 - 13**

**Annotation:**

27: 5 Q Is it your understanding that Terri Russell is the

6 person that coordinates the prayer requests--

7 A Yes.

8 Q --and isn't necessarily, you know, close or--

9 A Exactly.

10 Q --with Ms. Bartlett? Okay.

11 A She sends out prayer requests for everybody.

12 Q I got you.

13 A You know, whatever's lifted up.

**RULING:**

Sustained.

**OBJECTION:** Form.  
Relvance.

**Pg: 29 Ln: 8 - Pg: 30 Ln: 9**

**Annotation:**

29: 8 Q Okay. I'm going to hand you what I'm going to mark  
 9 as Exhibit 2 now.  
 10 (DEFENDANT'S DEPOSITION EXHIBIT NO. 2  
 11 MARKED FOR IDENTIFICATION)  
 12 Q And can you tell me what that is, please?  
 13 A Okay. This is the amended notice of deposition of  
 14 Rebecca Padulo.  
 15 Q Okay. If I understand your testimony correctly,  
 16 you had received an earlier version of this with  
 17 another date?  
 18 A Yes.  
 19 Q Right?  
 20 A Yes.  
 21 Q Okay. If I could just draw your attention to Page  
 22 2 of Exhibit 2.  
 23 A Uh-huh (yes).  
 24 Q And you can see that at the top of it it says  
 30: 1 "Document Request," right?  
 2 A Yes.  
 3 Q Okay. And basically there are two requests. One  
 4 asks you for any information provided to you by Mr.  
 5 or Mrs. Bartlett about medication or other  
 6 literature or TEN's or SJS, including e-mails. And  
 7 then the second one asks you for all communications  
 8 provided to you by plaintiff's counsel, which I'll  
 9 represent to you is Jensen, Ballew.

**RULING:**

Sustained.

**OBJECTION:**

Relevance.  
 Line 3-9 are an unanswered  
 question – therefore,  
 argumentative.

**Pg: 31 Ln: 2 - 5**

**Annotation:**

31: 2 THE WITNESS: Oh. Sorry.  
 3 MR. JENSEN: Don't look at them either.  
 4 MR. COSGROVE: Okay. I don't have them  
 5 and she's taken them back.

**RULING:**

Sustained.

**OBJECTION:**

Relevance.  
 Lack of foundation.

**Pg: 51 Ln: 20 - Pg: 52 Ln: 3**

**Annotation:**

51:20 Q Ms. Padulo, I just have one or two more questions.  
 21 Have you ever in your own personal life experienced  
 22 a tragic illness with respect to yourself or a  
 23 close family member?  
 24 A Close family member, yes.  
 52: 1 Q Do you agree with the proposition that anything can  
 2 happen at any time?  
 3 A Yes.

**RULING:**

Sustained.

**OBJECTION:**

Relevance.  
 Lack of Foundation.  
 Calls for Speculation,  
 Hypothetical of a non-expert  
 witness.  
 Improper expert testimony  
 without designation or foundation  
 that Ms. Padulo is an expert in  
 statistical probability.